

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of	)	<b>MAIL STOP Amendment</b>
Masakatsu Kiwada	)	Group Art Unit: 2625
Application No.: 10/800,873	)	Examiner: Iriana Cruz
Filed: March 16, 2004	)	Confirmation No.: 1558
For: IMAGE FORMING DEVICE, IMAGE	)	
FORMING METHOD, IMAGE	)	
FORMING PROGRAM, COMPUTER	)	
READABLE RECORDING MEDIUM	)	
ON WHICH THE PROGRAM IS	)	
RECORDED	)	

**RESPONSE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The Official Action dated July 23, 2009 imposes an election of species requirement and requests that Applicant elect one of two identified species. However, Applicant submits that an election is impossible because of internal inconsistencies in the Official Action.

Specifically, the Official Action states that the species are defined by paragraphs 27 - 40 and 42 - 51, respectfully. Presumably, the paragraph numbers refer to the numbering in the as-filed application, not the published application. If this is not the case, the Examiner is respectfully requested to clarify the record.

However, confusion results from the text recited in the Official Action, which the Examiner alleges is described in the aforementioned respective paragraphs of each species. Unfortunately, Applicant does not find any correlation between the recited paragraphs and the recited text. Specifically, it is not clear that paragraphs 27 - 40 describe the recited text listed on page 2 of the Official Action that is

attributed to paragraphs 27 - 40. Similarly, it is not clear that paragraphs 42 - 51 describe the text listed on pages 2 and 3 of the Official Action that is attributed to paragraphs 42 - 51.

Therefore, if Applicant selected one of the two alleged species, it would not be clear whether the elected subject matter was described by the recited paragraphs or by the text attributed to the recited paragraphs. Accordingly, Applicant submits that it is not possible to elect one of the two species.

Furthermore, the Examiner alleges that the species recite mutually exclusive characteristics of such species, and that the species require a different field of search, etc. However, the Examiner is required to explain what the mutually exclusive characteristics of such species are, and why the species require a different field of search.

In the event that the Examiner persists with this requirement, the Examiner is respectfully requested to address the foregoing issues.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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